

**WAYNE COUNTY KENTUCKY**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ENACTED TO PROTECT AGRICULTURAL OPERATORS  
FROM LEGAL ACTION BY NON-AGRICULTURAL USERS, EXPOSED TO  
NOISE, ODORS, DUST, CHEMICALS AND SMOKE PRODUCED BY  
NORMAL AGRICULTURAL OPERATIONS**

**SUMMARY**

It is recognized that Wayne County is rural and has an active and diverse agricultural sector. That non-agricultural land use is extending into the agricultural area and being exposed to noise, odors, dust, and smoke during various hours of operation. This ordinance is enacted to protect those engaged in normal agricultural operations from lawsuits filed by adjoining non-agricultural land users for nuisance actions.

\* \* \* \* \*

**WHEREAS**, when non-agricultural land uses extend into agricultural areas, agricultural operations can become the subject of lawsuits. As a result, agricultural operations are sometimes forced to cease operations. Other farmers may be discouraged from making improvements in their farming operations. It is the purpose of this ordinance to reasonably limit circumstances in which an agricultural operation, farm owner, or operator located in Wayne County may be sued for normal agricultural operations. Persons living near agricultural operations may be subjected to, but not limited to, noises, odors, dust, chemicals, smoke, and widely varying hours of operations.

Wayne County is rural and has an active and diverse agricultural sector. Persons choosing to live in a rural area or "in the country" such as Wayne County should know, or should have known, that they may be subjected to one or more inconveniences or discomforts arising from livestock, noise, odors, fumes, dust, smoke, insects, operation of machinery at any unusual hours, storage and manure disposal, applications of fertilizers, herbicides, fungicides, and pesticides. Said persons should not be allowed to sue others due to their misperceptions of country living.

**NOW, THEREFORE, BE IT ORDAINED** by the Fiscal Court of the County of Wayne, Commonwealth of Kentucky, as follows:

A. For the purpose of this Ordinance the following words and phrases shall have the meaning ascribed to them in this section:

1. "Agricultural land" shall mean all real property within the boundaries of Wayne County currently used for any legal agricultural or silvicultural pursuit.

2. "Agricultural operation" shall mean and include without limitation, any open land, lot or any facility for the production of crops, livestock or livestock products, poultry or poultry products, horticultural, and other reasonable and prudent customary farming operations.

3. "Silvicultural operation" shall mean and include timber harvesting, site preparation, slash disposal including controlled burning, tree planting and general operations with the growing of timber.

B. No change in the nature of conditions or operations in or about the locality thereof of an agricultural operation shall cause the agricultural operation to be deemed a nuisance, private or public.

C. No person or organization, regardless of taxable entity, shall be sued solely for owning, working or engaging in an agricultural endeavor; including, but not limited to, support persons or organizations, such as fertilizer or chemical suppliers or purchasers of agricultural products.

D. The provisions of this Ordinance shall not affect the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by them caused by an agricultural enterprise operating outside the accepted norm for the respective enterprise.

E. This ordinance shall not be construed in any way modifying or abridging Kentucky Revised Statute 413.072, or any other applicable provision of state law. It is only to be utilized in the interpretations and enforcement of the provision of this Ordinance. However, this Ordinance shall take precedence over all county ordinances or parts thereof, or resolutions or parts thereof in conflict herewith, and to the extent they do conflict with this Ordinance; they are hereby repealed with respect to the conflict and no more.

F. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance.

G. Any legal action brought by any individual, firm, or organization against any Wayne County agricultural operation, owner, or operator that is dismissed with prejudice or without merit shall reimburse defendant any and all legal expenses.

Given first reading this \_\_\_\_ day of \_\_\_\_\_ 2009.

Given second reading and duly enacted by the Wayne County Fiscal Court  
on this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

---

**Hon. Greg Rankin**  
**Wayne County Judge Executive**

**Attest**

---

**Melissa Turpin**  
**Wayne County Court Clerk**